



# NEVADA STATE BOARD OF PHARMACY

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## MINUTES

March 3-4, 2021

## BOARD MEETING

Pursuant to Governor Steve Sisolak's Emergency Directive 006, there will be no physical location for this meeting. The meeting can be listened to or viewed live over Zoom.

Via Videoconference at Zoom:  
<https://zoom.us/j/5886256671>

or

Via Teleconference at 1 (669) 900-6833  
Meeting ID: 588 625 6671

### Board Members Present:

Helen Park	Jade Jacobo	Krystal Freitas	Gener Tejero
Wayne Mitchell	Rolf Zakariassen	Richard Tomasso	

### Board Staff Present:

Dave Wuest	Yenh Long	Shirley Hunting	Courtney Lee
Brett Kandt	Joe Dodge	Dena McClish	Kristopher Mangosing
Sophia Long	Ken Scheuber	Darlene Nases	

President Park read the mission statement of the Nevada State Board of Pharmacy to reiterate the Board's duty to carry out and enforce the provisions of Nevada Law to protect the health, safety, and welfare of the public.

Dave Wuest stated that this Board Meeting is being held over Zoom and is in compliance with the Governor's directive and Open Meeting Laws for Nevada.

### 1. Call to Order and Roll Call – Establishment of Quorum

President Park performed the roll call. All Board members were present and a quorum was established.

2. Public Comment March 3, 2021, 9:00 AM

There was no Public Comment.

3. Approval of the January 13, 2021, Meeting Minutes

Board Action:

Motion: Wayne Mitchell moved to approve the January 13, 2021 minutes.

Second: Jade Jacobo

Action: Passed unanimously.

4. 4.1 Applications for Out-of-State Pharmacy License – Non-appearance

- A. Advances Diabetes Supply – Carlsbad, CA
- B. Allergy Partners Therapeutics – Asheville, NC
- C. Bristol Pharmacy – Flower Mound, TX
- D. Free State Pharmacy, LLC – Lawrence, KS
- E. JourniRx, Inc. – Portland, OR
- F. Kingsley Rx – Orange Park, FL
- G. Lumicera Health Services, LLC – Gaithersburg, MD
- H. OnePoint Patient Care – Tempe, AZ
- I. Pembroke Health Services LLC – Waldorf, MD
- J. PFSP – Rahway, NJ
- K. Valley Vet Supply – Marysville, KS
- L. Wegmans Food Markets, Inc. – Cheektowaga, NY

4.2 Application for Out-of-State Compounding Pharmacy License – Non-appearance

- M. Broadway Apothecary – Eugene, OR
- N. Clark’s Pharmacy Rx – Carefree, AZ
- O. Covetrus Pharmacy Services, LLC – Phoenix, AZ
- P. DeliverCareRx Pharmacy, LLC – Livermore, CA
- Q. Elements Compounding Pharmacy – Mesa, AZ
- R. Schaefer Drugs, Inc. – Wellington, FL
- S. Smith Drug Co. – Pleasant Grove, UT
- T. Your Health Pharmacy – Pompano Beach, FL

4.3 Applications for Out-of-State Medical, Devices, Equipment and Gases License – Non-appearance

- U. Empire DME, Inc. – Brooklyn, NY
- V. ProCare Biomedical Repair, LLC – Houston, TX
- W. Strive Medical LLC – Irving, TX

4.4 Applications for Nevada Medical, Devices, Equipment and Gases License – Non-appearance

4.5 Applications for Out-of-State Wholesaler License – Non-appearance

**Background Check Not Required by Law.**

4.5.1 Distributor for Single Manufacturer (NAC 639.593(7)(e))

4.5.2 Manufacturer (NAC 639.593(7)(d))

X. Aimmune Therapeutics, Inc. – Brisbane, CA

Y. Ascendis Pharma, Inc. – Palo Alto, CA

Z. Devatis, Inc. – San Clemente, CA

AA. Kyowa Kirin, Inc. – Bedminster, NJ

BB. Purisys, LLC – Athens, GA

CC. Saol Therapeutics, Inc. – Roswell, GA

DD. TWi Pharmaceuticals USA, Inc. – Paramus, NJ

EE. Virtus Pharmaceuticals, LLC – Bristol, PA

4.5.3 Publicly Traded (NAC 639.593(7)(a))

FF. MacroGenics, Inc. – Rockville, MD

4.5.4 VAWD-Accredited (NAC 639.593(7)(c))

GG. Dynasty Pharmaceuticals, Inc. – Lynnwood, WA

HH. Independent Pharmacy Distributor LLC – High Point, NC

4.5.5 Manufacturer and VAWD-Accredited (NAC 639.593(7)(c) and (d))

4.5.5 Publicly Traded and Manufacturer (NAC 639.593(7)(a) and (d))

II. Alexion Pharmaceuticals, Inc. – New Haven, CT

JJ. Assertio Therapeutics, Inc. – Lake Forest, IL

KK. Orphazyme US, Inc. – Chicago, IL

4.5.6 Publicly Traded and VAWD-Accredited (NAC 639.593(7)(a) and (c))

4.5.7 **Background checks completed in compliance with NRS 639.500. No Disqualifying Events.**

LL. Amatheon Animal Health, LLC – Miami, FL

4.6 Application for Nevada Wholesaler License – Non-Appearance

Publicly Traded (NAC 639.593(7)(a))

MM. Bioverativ U.S. LLC – Reno, NV

4.7 Application for Nevada Pharmacy License – Non-appearance

NN. ER at S. Las Vegas Blvd. – Las Vegas, NV

OO. Grover C. Dils Medical Center – Caliente, NV

Krystal Freitas disclosed that she used to work with the managing pharmacist for Item 4 NN, but she stated that she could participate fairly and without bias.

Dave Wuest, Executive Secretary, commented that Item 4 NN is pending approval of an updated managing pharmacist on their application. The managing pharmacist listed on the application manages another location which by law is not allowed.

Board Action:

Motion: Jade Jacobo moved to approve the Consent Agenda Item with the exception of Item 4 OO pending further clarification by Board Staff.

Second: Wayne Mitchell

Action: Passed unanimously.

5. Disciplinary hearings pursuant to NRS 639.247.

A. Charles Fleisher, MD

(20-227-CS-S)

Dr. Fleisher was not present.

Jill Chase appeared as counsel representing Dr. Fleisher.

Brett Kandt appeared as prosecutor and presented a proposed Stipulation and Order for the Board's consideration.

Under the Stipulation, Dr. Fleisher's registration is to remain in an "inactive" status. If Dr. Fleisher would like to change his status, he must petition to appear before the Board.

Jill Chase had no objection to Mr. Kandt's summary of the case and Stipulation and Order presented.

Board Action:

Motion: Wayne Mitchell moved to approve the Stipulation and Order as presented regarding case# 20-227-CS-S.

Second: Jade Jacobo

Action: Passed unanimously.

B. Michael L. Gerber, H.M.D

(17-015-CS-N)

Gener Tejero recused from participation in this matter as he knows Dr. Gerber.

Michael Gerber and his wife, Inge Geber, appeared and were sworn in. Lyn Beggs appeared as counsel representing Dr. Gerber.

Brett Kandt prosecuted the case and made reference to the documents on pages 716-735 to be entered into the record by stipulation of the parties. Kandt argued that Dr. Gerber voluntarily surrendered his controlled substance and dispensing practitioner registrations while this case was pending. NRS 233B.121(6) states "The voluntary surrender of a license in a contested case shall be deemed to constitute disciplinary action against the licensee."

Brett Kandt argued that Dr. Gerber challenged this statute in district court and the court upheld the constitutionality and application of the statute to Dr. Gerber, and that the court order establishes the applicable facts and law of Dr. Gerber's case. Dr. Gerber appealed the district court decision to the Nevada Supreme Court and the Supreme Court upheld the district court decision. During this time, Dr. Gerber sought judicial review of the Order of the Nevada Board of Homeopathic Medical Examiners that resulted in the corresponding administrative action before the Board of Pharmacy, and ultimately negotiated a settlement with the Homeopathic allowing him to keep his unrestricted license to practice homeopathic medicine.

Mr. Kandt argued that the purpose of the hearing is to make a formal record of Dr. Gerber's voluntary surrender. Ms. Beggs argued that Dr. Gerber did not "surrender" his registrations, but he merely did not renew as the registrations were not needed. Dr. Gerber testified that he did not write the letters on pages 716 and 719, and he only intended to not renew due to the advice of former counsel. Mrs. Gerber testified that she wrote the letters, and the intent behind the letters was to not renew Dr. Gerber's registrations.

Board discussion ensued.

Kandt requested that the Board make the following findings of fact:

1. At the time of the events set forth herein, Respondent held a Nevada controlled substance registration, Certificate of Registration No. CS03675, and a Nevada dispensing practitioner registration, Certificate of Registration No. PD03675, both issued by the Board.
2. On January 23, 2018, the Board commenced this administrative disciplinary proceeding against Respondent with the filing and service of a Notice of Intended Action and Accusation (Accusation) together with the Statement to Respondent and Notice of Hearing, Case No. 17-015-N.

3. By correspondence dated August 29, 2018, and while Case No. 17-015-N was pending, Respondent unilaterally and voluntarily surrendered to the Board his Certificate of Registration Nos. CS03675 and PD03675.
4. In response to Respondent's voluntary surrender, Board staff cancelled Certificate of Registration No. CS03675 effective September 8, 2018, and Certificate of Registration No. PD03675 effective September 6, 2018.
5. By correspondence dated September 11, 2018, Respondent reiterated his unilateral, voluntary surrender of his controlled substance and dispensing practitioner registrations.
6. On November 16, 2018, the parties stipulated to continue Case No. 17-015-N while the Respondent sought declaratory and injunctive relief in district court.
7. On February 20, 2019, the district court entered an Order Granting the Board's Cross-Motion for Summary Judgment and Denying Respondent's Motion for Summary Judgment in *Michael L. Gerber, H.M.D. vs. State of Nevada ex rel. its Board of Pharmacy*, Case No. CV18-02184.
8. Respondent appealed to the Nevada Supreme Court and, on March 18, 2020, the Nevada Supreme Court entered an Order of Affirmance in *Michael L. Gerber, H.M.D. vs. State of Nevada ex rel. its Board of Pharmacy*, Case No. 78809.
9. Board staff incurred at least \$3217.50 in attorney's fees and recoverable costs from investigating and prosecuting this administrative action. The attorney's fees and costs are reasonable based upon legal counsel's professional qualities, the nature of this administrative enforcement action, the work performed, and the result as evidenced by this Order.

Board Action:

Motion: Richard Tomasso moved to make findings of fact as proposed by Mr. Kandt.

Second: Jade Jacobo

Action: Passed unanimously (Tejero recused).

Mr. Kandt requested that the Board make the following conclusions of law:

1. The Board has jurisdiction over this matter and this respondent, because at the time of the events herein, Respondent was registered with the Board.
2. Respondent's voluntary surrender of Certificate of Registration Nos. CS03675 and PD03675 constitutes disciplinary action in this matter pursuant to NRS 233B.121(6).

Board discussion ensued.

Board Action:

Motion: Jade Jacobo moved to make conclusions of law as proposed by Mr. Kandt.

Second: Krystal Freitas

Action: Passed unanimously (Tejero recused).

Mr. Kandt presented documentation of \$3217.50 in attorney fees and costs recoverable pursuant to NRS 622.400. Ms. Beggs wanted confirmation that attorney fees and costs from the litigation in district court and on appeal were not included. Mr. Kandt confirmed this.

Mr. Kandt requested that Respondent's voluntary surrender of Registration Nos. CS03675 and PD03675 be entered into the record and reported as disciplinary action pursuant to NRS 233B.121(6), and that \$3217.50 in attorney fees and costs be awarded pursuant to NRS 622.400. Mr. Wuest recommended a \$5000 fine for the violation. Ms. Beggs objected to a fine since the original charges were not adjudicated on the merits.

Board discussion ensued.

Board Action:

Motion: Jade Jacobo moved that Dr. Gerber's voluntary surrender of Registration Nos. CS03675 and PD03675 be entered into the record and reported as disciplinary action, that he be unable to prescribe and dispense controlled substances, that he shall appear before the Board if he reapplies for registration, and that he pays \$3217.50 in recoverable attorney fees and costs.

Second: Krystal Freitas

Action: Passed unanimously (Tejero recused).

C. Eric Martin Math, MD (19-083-CS-N)

This matter was continued to a future meeting.

D. Daniel Niel, RPH (20-090-RPH-S)

Krystal Freitas disclosed that her job worked closely with Mr. Niel's company, but she did not interact with him. She stated that she could participate fairly and without bias.

Mr. Niel appeared and was sworn in by President Park. Lyn Beggs appeared as counsel representing Mr. Niel

Brett Kandt prosecuted the case and made reference to Stipulated Findings of Fact on pages 777-779 to be entered into the record by stipulation of the parties.

Motion: Wayne Mitchell moved to make findings of fact as presented by Mr. Kandt.

Second: Jade Jacobo

Action: Passed unanimously.

Mr. Kandt requested that the Board make conclusions of law consistent with the five causes of action set forth in the accusation.

Ms. Beggs argued that the stipulated facts do not support a charge of deceitful practice.

Board discussion ensued.

Board Action:

Motion: Jade Jacobo moved to make conclusions of law consistent with the five causes of action set forth in the accusation.

Second: Wayne Mitchell

Action: Passed unanimously.

Mr. Kandt requested that the Board revoke Mr. Neil's Certificate of Registration No. 19767, that Mr. Neil not be allowed to work in any facility licensed by the Board until he petitions for reinstatement, that he be allowed to petition for reinstatement after one year with revocation effective immediately. Mr. Wuest recommended a \$5000 fine for the violations and that \$1300 in attorney fees and costs be awarded pursuant to NRS 622.400. Ms. Beggs stipulated to \$1300 in recoverable attorney fees and costs.

Ms. Beggs argued that this case is different from other diversion cases due to Mr. Niel's mental state during the time of the violations and how he continues to improve his mental health through the PRN-PRN program and meeting with a therapist regularly, and how he has agreed not to work in Nevada due to the current charges.

Ms. Beggs argued that the Board should not revoke Mr. Niel's registration but be placed on probation. Mr. Niel read a statement to the Board advising of his remorse, guilt, embarrassment, and regret for his actions in this case. He provided the Board the steps that he has taken to improve his mental health and how he would not repeat his actions again.

Board discussion ensued.

Ms. Beggs requested a recess to talk to Mr. Niel and Mr. Chase from PRN-PRN. The hearing was recessed.

The hearing resumed and Mark Lee Chase, Program Director of PRN-PRN, was sworn in by President Park and testified regarding Mr. Niel's evaluation and treatment.

Board discussion ensued.

Board Action

Motion: Jade Jacobo moved to revoke Mr. Neil's Certificate of Registration No. 19767, that Mr. Neil not be allowed to work in any facility licensed by the Board until he

petitions for reinstatement, that he be allowed to petition for reinstatement after two years with revocation effective immediately, that he pays a \$5000 fine for the violations and that he pay \$1300 in recoverable attorney fees and costs.

Second: Richard Tomasso

Aye: Park, Mitchell, Jacobo, Zakariassen, Freitas, Tomasso

Nay: Tejero

Action: Motion carries.

E. Vidur Mahadeva, MD

(20-111-CS-N)

Brett Kandt prosecuted the case and requested a continuance to April.

Carl Hebert appeared as counsel representing Dr. Mahadeva and agreed to continue the hearing.

Dave Wuest stated that Dr. Mahadeva does not have a current DEA Registration and is not a risk to the public.

President Park agreed to continue the matter.

6. Applications for Pharmaceutical Technician in Training Registration– Appearance.

A. Jazmine Hewitt

Jazmine Hewitt appeared and was sworn in by President Park prior to answering questions or offering testimony.

Courtney Lee, General Counsel for the Board, provided background on Ms. Hewitt's disclosure regarding domestic violence and questioned Ms. Hewitt if she completed her domestic violence classes, paid her fines, and completed her community service.

Board discussion ensued regarding Ms. Hewitt's disclosure, her interactions with law enforcement, and why she wants to be a Pharmacy Technician.

Ms. Hewitt answered questions to the Board's satisfaction.

Board Action:

Motion: Jade Jacobo motioned to approve Jazmine Hewitt's Pharmaceutical Technician in Training application.

Second: Krystal Freitas

Action: Passed unanimously.

B. Joseph Repetti

Joseph Repetti appeared and was sworn in by President Park prior to answering questions or offering testimony.

Courtney Lee provided background on Mr. Repetti's disclosure. She stated that Mr. Repetti appeared before the Board in October 2019 and disclosed that he stole and pawned an item from his ex-girlfriend to buy opiates.

Mr. Repetti stated that he attended narcotics anonymous classes and meets with his sponsor regularly.

Ms. Lee explained that Mr. Repetti provided documentation of his conviction and his evaluation by PRN-PRN.

Board discussion ensued regarding Mr. Repetti's disclosure, any issues with law enforcement or drugs, and why he wants to be a Pharmacy Technician.

Mr. Repetti answered the Board's questions to their satisfaction. Mr. Repetti explained to the Board that he has learned from his mistakes and will not repeat them again.

Joe Dodge, Inspector for Board of Pharmacy, read Mr. Repetti's positive PRN-PRN evaluation to the Board.

After discussion, the Board advised Mr. Repetti to provide an updated application with the current managing pharmacist's information.

Board Action:

Motion: Richard Tomasso moved to approve Joseph Repetti's Application for Pharmaceutical Technician in Training registration pending receipt of updated application with the new Managing Pharmacist.

Second: Gener Tejero

Action: Passed unanimously.

7. Applications for Pharmaceutical Technician Registration– Appearance.

A. Leslie Costanza

Leslie Costanza appeared and was sworn in by President Park prior to answering questions or offering testimony.

Courtney Lee provided background on Ms. Costanza's disclosure which was a prior DUI.

Board discussion ensued regarding Ms. Constanza's disclosure.

Ms. Constanza answered questions to the Board's satisfaction.

Board Action:

Motion: Krystal Freitas moved to approve Leslie Constanza's Pharmaceutical Technician application.

Second: Jade Jacobo

Action: Passed unanimously.

B. Kishan Desai

Kishan Desai appeared and was sworn in by President Park prior to answering questions or offering testimony.

Courtney Lee provided background on Mr. Desai's disclosure which was a prior DUI.

Mr. Desai explained that his court documents were lost in a fire at his apartment complex.

The Board provided information to Mr. Desai on how to retrieve his court documents.

President Park offered Mr. Desai the opportunity to table his application in order to retrieve and submit his court documents to the Board for review.

President Park tabled Mr. Desai's application at his request.

C. Athiena Stafford

Athiena Stafford appeared and was sworn in by President Park prior to answering questions or offering testimony.

Courtney Lee provided background on Ms. Stafford's disclosure which was a prior DUI.

Board discussion ensued regarding Ms. Stafford's disclosure, her probation period, any issues with the law, and why she would like to be a Pharmaceutical Technician.

Ms. Stafford answered questions to the Board's satisfaction.

Board Action:

Motion: Richard Tomasso moved to approve Athiena Stafford's Pharmaceutical Technician in Training application with the condition that she informs the Board

Staff of changes to her probation status. If she does not comply with the conditions of her probation, then the Board can cancel her registration.

Second: Gener Tejero

Action: Passed unanimously.

8. Applications for Controlled Substance Registration– Appearance.

Ryan Doucette

Ryan Doucette appeared and was sworn in by President Park prior to answering questions or offering testimony.

Brett Kandt provided background on Mr. Doucette's disclosure which was prior DUIs and a malpractice lawsuit that did not involve the prescribing or dispensing of medication.

Mr. Doucette answered questions to the Board's satisfaction regarding his DUIs and malpractice lawsuit.

Mr. Doucette acknowledged that he made mistakes and is working to rectify those issues. He appreciates the Board giving him an opportunity to speak on this issue.

Board Action:

Motion: Jade Jacobo moved to approve Ryan Doucette's Application for Controlled Substance Registration.

Second: Krystal Freitas

Action: Passed unanimously.

9. Application for Nevada Pharmacy License – Appearance

A. Atlas Pharmacy and Medical Supply – Las Vegas, NV

Obidike Ihenacho, Managing Pharmacist, appeared and was sworn in by President Park prior to answering questions or offering testimony.

Joe Dodge questioned Mr. Ihenacho regarding his work history and his business model.

Mr. Ihenacho answered questions to the Board's satisfaction.

Rolf Zakariassen expressed concern regarding Mr. Ihenacho's work history and requested Mr. Ihenacho submit an updated accurate work history form.

President Park offered Mr. Ihenacho the opportunity to table his application in order to update his work history form.

President Park tabled Atlas Pharmacy and Medical Supply's application at Mr. Ihenacho's request.

Public Comment March 3, 2021, 5:00 PM

There was no Public Comment.

#### B. One Point Patient Care – Las Vegas, NV

Kimberely Johnson, Managing Pharmacist, appeared and was sworn in by President Park prior to answering questions or offering testimony.

Dave Wuest requested a Letter of Authorization for Ms. Johnson to speak on behalf of the company.

Mr. Wuest questioned Ms. Johnson regarding the business model of One Point Patient Care and the new ownership.

Ms. Johnson answered all questions to the Board's satisfaction.

Joe Dodge reviewed the application and the past virtual inspection of the pharmacy to the Board. He stated that the pharmacy has met the requirements.

#### Board Action:

Motion: Krystal Freitas moved to approve the pharmacy license for One Point Patient Care pending Letter of Authorization allowing Ms. Johnson to speak on behalf of the company.

Second: Gener Tejero

Action: Passed unanimously.

#### C. Optum Frontier Therapies II, LLC – Las Vegas, NV

This matter was heard in conjunction with Agenda Item 13B

Brett Kandt provided background to the Board regarding the disclosures for this company.

Dominic Ortega, Managing Pharmacist, and Jonathan Keel, facility manager, appeared and were sworn in by President Park prior to answering questions or offering testimony.

President Park requested a Letter of Authorization to allow Mr. Keel and Mr. Ortega to speak on behalf of the company.

Mr. Wuest questioned Mr. Ortega and Mr. Keel regarding the products and services provided, Optum Frontier Therapies II, LLC's past disciplinary history and the company's business model.

Mr. Ortega and Mr. Keel answered questions to the Board's satisfaction.

Board Action:

Motion: Krystal Freitas moved to approve pharmacy and wholesaler license for Optum Frontier Therapies II Applications for Nevada Pharmacy license and Nevada Wholesaler License pending receipt of Letters of Authorization allowing Dominic Ortega and Jonathan Keel to speak on behalf of the company.

Second: Gener Tejero

Action: Passed unanimously.

D. Silver State Drug – Caliente, NV

Brett Kandt provided background to the Board regarding the disclosures for Silver State Drug.

Andrew Bleak, Managing Pharmacist, appeared and was sworn in by President Park prior to answering questions or offering testimony.

Joe Dodge provided background on Mr. Bleak regarding his work history and his application.

Mr. Bleak clarified to the Board that he would like to withdraw this application and commented that he is in the process of purchasing Jolly's Pharmacy. He planning to rename the pharmacy to "Silver State Drug" instead.

Board discussion ensued regarding the application changes and the pharmacy's current status.

Mr. Kandt requested that this matter be tabled to a future meeting to allow Mr. Bleak to provide an updated accurate application to the Board.

President Park offered Mr. Bleak the opportunity to table his application in order to update the pharmacy application.

President Park tabled Silver State Drug's application at Mr. Bleak's request.

E. Value Pharmacy – North Las Vegas, NV

No representative on behalf of Value Pharmacy was present.

10. Applications for Out-of-State Compounding Pharmacy License – Appearance

A. AlleReach Pharmacy – Dallas, TX

Erica Leger, Managing Pharmacist, appeared and was sworn in by President Park prior to answering questions or offering testimony.

Ms. Leger stated that she will provide a Letter of Authorization allowing her to speak on behalf of the company.

Board staff questioned Ms. Leger regarding the pharmacy's business model and her work history.

After discussion, the Board expressed concern regarding AlleReach Pharmacy's business model.

Ms. Leger and Jared Moss, General Counsel for AlleReach Pharmacy, stated that they would discuss their business model to confirm that their business will abide by Nevada's state laws.

President Park offered Ms. Leger the opportunity to table the application in order for Mr. Moss to review that AlleReach Pharmacy's business model is in compliance with Nevada Law.

President Park tabled AlleReach Pharmacy's application at Ms. Leger's request.

B. Carolina Infusion – Ridgeland, SC

No representative on behalf of Carolina Infusion was present.

C. Dragonfly Infusion Services – Wintersville, OH

Mary Mihalyo, Managing Pharmacist, appeared and was sworn in by President Park prior to answering questions or offering testimony.

Joe Dodge questioned Ms. Mihalyo about Dragonfly Infusion Services' products and services provided, policies and procedure, shipping practices, business model and Ms. Mihalyo's work history.

The Board removed the affidavit not to ship sterile compounded products into Nevada from Dragonfly Infusion Services' application at Ms. Mihalyo's request.

Ms. Mihalyo answered all questions to the Board's satisfaction.

Board Action:

Motion: Krystal Freitas moved to approve pharmacy license for Dragonfly Infusion Services pending policies and procedures for Board Staff to review.

Second: Richard Tomasso

Action: Passed unanimously.

D. Meds In Motion – Draper, UT

Tufan Nasir, Managing Pharmacist, appeared and was sworn in by President Park prior to answering questions or offering testimony.

President Park requested a Letter of Authorization allowing Mr. Nasir to speak on behalf of Meds in Motion.

The Board questioned Mr. Nasir regarding Meds in Motion's past discipline.

Mr. Nasir was unable to answer questions to the Board's satisfaction.

After discussion, President Park offered Mr. Nasir the option to table Meds in Motion's application to allow him time to provide an updated application and reappear with a representative who could answer the Board's questions regarding Meds in Motion's disciplinary history.

President Park tabled Meds in Motion's application at Mr. Nasir's request.

11. Applications for Out-of-State Pharmacy License – Appearance

A. Nextcare Pharmacy – Houston, TX

No representative on behalf of Value Pharmacy was present.

B. TheraCom – Brooks, KY

Jack McGuire, Managing Pharmacist, and Joseph Eiler, Registered Pharmacist, appeared and were sworn in by President Park prior to answering questions or offering testimony.

Courtney Lee provided background on Mr. McGuire's and Mr. Eiler's disclosures to the Board.

Mr. Eiler provided a summary regarding past discipline for Amerisource Bergan, TheraCom's parent company. He testified that all conditions of Amerisource Bergan's past discipline have been met.

Mr. McGuire provided clarification on his disclosure regarding a prior DUI and not fulfilling his continuing education. He stated that all fines were paid, and his license is in good standing.

Mr. Eiler and Mr. McGuire answered questions to the Board's satisfaction.

President Park requested a Letter of Authorization allowing Mr. McGuire and Mr. Eiler to speak on behalf of Theracom.

Board Action:

Motion: Jade Jacobo moved to approve the out-of-state pharmacy license for Theracom pending receipt of a Letter of Authorization allowing Mr. McGuire and Mr. Eiler to speak on behalf of the company.

Second: Krystal Freitas

Action: Passed unanimously.

12. Application for Nevada Medical, Devices, Equipment and Gases License – Appearance

A. Aircare Medical Inc. – Henderson, NV

Neil McKay, MDEG Administrator, appeared and was sworn in by President Park prior to answering questions or offering testimony.

Joe Dodge questioned Mr. McKay about the business and his work history.

Mr. McKay answered questions to the Board's satisfaction.

After discussion, President Park questioned Mr. McKay if Aircare Medical Inc. has performed any unlicensed practice before the temporary license was issued. Mr. McKay confirmed.

Mr. McKay requested to update the name of the application to Aircare SMRT LLC.

Board Action:

Motion: Jade Jacobo moved to approve Aircare SMRT LLC's Application for Nevada Medical, Devices, Equipment and Gases License pending a positive opening inspection. In addition, a second inspection is conducted within 90 days at the company's expense.

Second: Wayne Mitchell

Action: Passed unanimously.

Public Comment March 4, 2021, 9:00 AM

There was no Public Comment.

Gener Tejero was not on March 4, 2021, until 10:00 AM, and a quorum was established.

B. Barber DME Supply Group – Nellis AFB, NV

Tim Barber, CEO, appeared and was sworn in by President Park prior to answering questions or offering testimony.

Joe Dodge questioned Mr. Barber regarding Barber DME Supply Group’s business model, staff training, and products and services provided.

Mr. Barber answered questions to the Board’s satisfaction regarding his work history, Barber DME Supply Group’s products and services provided.

The Board expressed concern that Barber DME Supply Group may have performed unlicensed activities.

Board discussion ensued regarding having Board Staff conduct an additional inspection at the company’s expense.

Board Action:

Motion: Jade Jacobo moved to approve MDEG license for Barber DME Supply Group pending a positive inspection. In addition, a second inspection is conducted within 90 days of the initial inspection at the expense of the company.

Second: Wayne Mitchell

Action: Passed unanimously.

C. Kinex Medical Company – Las Vegas, NV

LeeAnn Wilhem, Compliance Officer, and Sandra Sorenson, MDEG Administrator, appeared and were sworn in by President Park prior to answering questions or offering testimony.

President Park requested a Letter of Authorization that Ms. Wilhelm and Ms. Sorenson are authorized to speak on behalf of Kinex.

Joe Dodge wanted to confirm if the owner Michael Buckholdt, part owner, is actively working as a Physical Therapist. Ms. Wilhelm confirmed that he is not. Mr. Dodge clarified that Nevada Law does not allow health care professionals to obtain a license per NAC 639.6943.

The Board questioned Ms. Sorenson regarding her work history and experience as an MDEG administrator.

The Board expressed concern that Ms. Sorenson’s work history form did not match up with her testimony.

President Park offered Ms. Wilhelm and Ms. Sorenson the opportunity to table the application to provide the Board with an updated application and work history form for Ms. Sorenson.

President Park tabled Kinex Medical Company's application at Mr. Wilhelm's request.

#### D. Patients Choice LLC – North Las Vegas, NV

Deejay Graves (NV Area Manager), Todd Davis (Compliance Manager), and Delbert Rinqest (Owner) appeared and were sworn in by President Park prior to answering questions or offering testimony.

President Park requested a Letter of Authorization allowing Mr. Graves to speak on behalf of Patients Choice LLC.

Joe Dodge questioned Mr. Davis about the MDEG application. He stated that the application needs to be updated to reflect an MDEG Administrator who is located in Nevada.

Mr. Graves stated that Ms. Ali who was listed on the application as the MDEG administrator is no longer with the company. Mr. Graves stated that currently there is no new administrator at the Las Vegas location.

President Park offered Patients Choice LLC the opportunity to table the application to submit an updated application with an MDEG administrator located in Nevada.

President Park tabled Patients Choice LLC's application at Mr. Graves', Mr. Davis' and Mr. Rinqest's request.

#### E. VieMed – Reno, NV

Brett Stoute, Chief Compliance Officer, and Nicole Grant, MDEG Administrator, appeared and were sworn in by President Park prior to answering questions or offering testimony.

Dave Wuest provided background to the Board on VieMed's history and stated that the Nevada Board of Pharmacy issued a cite and fine for unlicensed practice in Nevada. Mr. Wuest stated that VieMed has paid their fine.

Mr. Stoute stated that Nicole Grant would be the MDEG Administrator at the Reno, NV location.

Mr. Wuest questioned Ms. Grant regarding her experience as an MDEG Administrator and her knowledge regarding the products and services provided by VieMed.

Ms. Grant and Mr. Stoute answered all questions to the Board's satisfaction.

#### Board Action:

Motion: Wayne Mitchell moved to approve MDEG license for VieMed pending positive inspection. In addition, a second inspection within 90 days at the company's expense.

Second: Rolf Zakariassen

Action: Passed unanimously.

13. Application for Nevada Wholesaler License – Appearance

- A. Lincare, Inc. – Sparks, NV – Background Check Not Required - Manufacturer (NAC 639.593(7)(d)) – Disclosure

Austin Carne, Facility Manager, appeared and was sworn in by President Park prior to answering questions or offering testimony.

Brett Kandt stated that Lincare disclosed that the corporation, any owner, shareholder, or partner had been the subject of an administrative action or proceeding relating to the pharmaceutical information. Mr. Kandt stated that no additional information was provided.

President Park requested Mr. Carne to provide background on the disclosure and requested a Letter of Authorization allowing him to speak on behalf of the company.

Mr. Carne was unable to provide background to the Board regarding the disclosure.

President Park offered Lincare, Inc. the opportunity to table the application and reappear with a representative who could provide information on the company's disclosure.

President Park tabled Lincare, Inc's application at Mr. Carne's request.

- B. Optum Frontier Therapies II, LLC – Background Check Not Required – Publicly Traded (NAC 639.593(7)(a)) – Disclosure

This matter was heard in conjunction with Item 9C.

14. Applications for Out-of-State Wholesaler License – Appearance

- A. Animal Health International, Inc. – Red Bluff, CA – Background check completed. No Disqualifying Events- Disclosure

Alex Cooper, attorney representing Animal Health International Inc., appeared and was sworn in by President Park prior to answering questions or offering testimony.

Courtney Lee, General Counsel for the Board, provided background regarding Animal Health International's past disciplinary history. Ms. Lee questioned Mr. Cooper regarding the company's past discipline, and the status of the company's licenses in other states.

Mr. Cooper provided explanations regarding each of the disciplinary cases disclosed on their application and the status of the cases in each state. Mr. Cooper testified that all fines have been paid and that the company has resolved all open litigation. Mr. Cooper explained that the discipline all stemmed from an occurrence of unlicensed practice.

Mr. Cooper explained the changes that the company has adopted to prevent future errors from occurring in the future.

Board Action:

Motion: Krystal Freitas moved to approve out-of-state license for Animal Health International.

Second: Jade Jacobo

Action: Passed unanimously.

B. Celgene Corporation – Allentown, PA - Background Check Not Required - Manufacturer and VAWD-Accredited (NAC 639.593 (7)(c) and (d)) – Disclosure

C. Celgene Corporation – Summit, NJ - Background Check Not Required - Manufacturer (NAC 639.593 (7)(d)) – Disclosure

Jade Jacobo disclosed that her employer works with Celgene; however, she stated that she could participate fairly and without bias.

Tom Scalone, Designated Representative, and Jennifer Schneider, Licensing Department, appeared and were sworn in by President Park prior to answering questions or offering testimony.

Courtney Lee provided background of the company's disclosure regarding failure to disclose disciplinary action to the Oregon and Alabama Board of Pharmacy.

Mr. Scalone provided background and confirmed that fines were paid.

Mr. Scalone and Ms. Schneider answered questions to the Board's satisfaction.

Board Action:

Motion: Krystal Freitas moved to approve Celgene Corporations' Applications for Out-of-State Wholesaler License for both the Allentown, PA and Summit, NJ locations.

Second: Jade Jacobo

Action: Passed unanimously.

D. Huvepharma, Inc. – St. Louis, MO – Background Check Not Required - Manufacturer (NAC 639.593 (7)(d)) – Disclosure

Todd Knoll, Facility Manager, appeared and was sworn in by President Park prior to answering questions or offering testimony.

President Park requested a Letter of Authorization allowing Mr. Knoll to speak on behalf of the company.

Brett Kandt provided background to the Board regarding disclosures provided by Huvepharma.

Board questioned Mr. Knoll regarding Huvepharma's business model and the disclosures on the application.

Mr. Knoll was unable to answer questions regarding Huvepharma's disclosures.

President Park offered Huvepharma, Inc. the opportunity to table the application to reappear with a representative who could answer the Board's questions regarding their disclosures.

President Park tabled Huvepharma, Inc's application at Mr. Knoll's request.

E. ICU Medical Sales, Inc. – Lancaster, TX – Background check completed. Disqualifying Events – Disclosure

Wesley Davis, Global Distribution Operations Manager, appeared and was sworn in by President Park prior to answering questions or offering testimony.

Dave Wuest provided background information regarding ICU Medical Sales, Inc.'s disclosure and stated that the information provided by Mr. Davis was consistent with the results of his background check.

Mr. Davis answered questions to the Board's satisfaction regarding the products and services provided by ICU Medical Sales.

Board Action:

Motion: Jade Jacobo moved to approve out-of-state wholesaler application for ICU Medical Sales.

Second: Krystal Freitas

Action: Passed unanimously.

F. Pharmacia & Upjohn Company LLC – Kalamazoo, MI – Publicly Traded and Manufacturer (NAC 639.593 (7)(a) and (d)) – Disclosure

Jonathan Dobbins, Facility Manager, appeared and was sworn in by President Park prior to answering questions or offering testimony.

President Park requested a Letter of Authorization to confirm that Mr. Dobbins is allowed to speak on behalf of Pharmacia & Upjohn Company LLC.

Courtney Lee provided background on the disclosure and stated that company was fined due to operating without proper permits and inaccurate recordkeeping.

Mr. Dobbins confirmed that the fines were paid and answered questions to the Board's satisfaction regarding Pharmacia & Upjohn Company LLC's products and services provided.

Board Action:

Motion: Jade Jacobo moved to approve out-of-state wholesaler license for Pharmacia & Upjohn Company LLC.

Second: Rolf Zakariassen

Action: Passed unanimously.

G. Upjohn US 1 LLC – Peapack, NJ - Publicly Traded and Manufacturer (NAC 639.593 (7)(a) and (d))

No representative on behalf of Upjohn US 1 LLC was present.

15. Application for Out-of-State Outsourcing Facility – Appearance

A. Eagle, Inc. – Hoover, AL

Zahir Hamid, General Manager for Eagle Inc, appeared and was sworn in by President Park prior to answering questions or offering testimony.

President Park requested a Letter of Authorization to confirm that Mr. Hamid is allowed to speak on behalf of the company.

Joe Dodge, Inspector for the Board of Pharmacy, questioned Mr. Hamid regarding Eagle Inc.'s business model and past FDA inspections.

Mr. Hamid answered questions regarding Mr. Hamid's work history, and past FDA Inspections. Mr. Hamid described to the Board the steps the company has taken to address each of the observations noted in the FDA Inspections.

After discussion, the Board expressed concern regarding observations still pending with the FDA.

President Park offered Eagle, Inc. the opportunity to table the application pending FDA regulatory meeting results for Board staff to review.

President Park tabled Eagle, Inc's application at Mr. Hamid's request.

#### B. Fagron Sterile Services LLC – Wichita, KS

Joy Umholtz, Supervising Pharmacist, and Jason McGuire, Global Quality Director, appeared and were sworn in by President Park prior to answering questions or offering testimony.

Joe Dodge questioned Ms. Umholtz regarding the observations listed on their FDA Inspection.

Ms. Umholtz and Mr. McGuire answered questions to the Board's satisfaction.

Mr. McGuire disagreed with FDA's findings of being essential copies and clarified to the Board of what their drug offers.

Board discussion ensued regarding Fagron's drug being an essential copy per the FDA and debating if the drug should only be allowed when there is a shortage.

#### Board Action:

Motion: Jade Jacobo moved to approve out-of-state outsourcing facility license for Fagron with the exception that they do not provide essential copy products unless there is a shortage, or the FDA rules that the products in question are not essential copies. In addition, Board will allow Fagron to provide existing patients products one month from today's date: March 4, 2021.

Second: Krystal Freitas

Action: Passed unanimously.

#### C. Nephron Sterile Compounding Center, LLC – West Columbia, SC

Lou Kennedy, CEO, and Jane Killian, Supervising Pharmacist, appeared and were sworn in by President Park prior to answering questions or offering testimony.

Joe Dodge questioned Mr. Kennedy and Ms. Killian regarding the observations noted on Nephron's past FDA inspections, Mr. Kennedy's and Ms. Killian's work history.

Mr. Kennedy and Ms. Killian reviewed each FDA observation and discussed the changes the company made to address the FDA's concerns.

Mr. Kennedy and Ms. Killian answered questions to the Board's satisfaction.

#### Board Action:

Motion: Jade Jacobo moved to approve the out-of-state outsourcing facility license for Nephron Sterile Compounding Center, LLC.

Second: Krystal Freitas

Action: Passed unanimously.

D. Wells Pharma of Houston, LLC – Houston, TX

Jonathan Rekieta, Lead Pharmacist, appeared and was sworn in by President Park prior to answering questions or offering testimony.

President Park requested a Letter of Authorization to confirm that Mr. Rekeita is allowed to speak on behalf of the company.

Joe Dodge provided background on the company and informed the Board that Wells Pharma of Houston LLC has not yet been inspected by the FDA. Mr. Dodge questioned Mr. Rekieta on company's policies and procedures, products and services provided, clean room specifications, product testing and staff training.

Mr. Rekeita answered Mr. Dodge's question to the Board's satisfaction.

Mr. Dodge requested Mr. Rekeita send the results of the future FDA inspection as well as the past inspections completed by the Texas and Florida Boards of Pharmacy.

Board Action:

Motion: Jade Jacobo moved to approve out-of-state outsourcing facility license pending receipt and review of Texas and Florida Board inspections. In addition, she would like the results of the FDA inspection submitted to the Board when it happens.

Second: Krystal Freitas

Action: Passed unanimously.

16. Application for Pharmacist Registration by Reciprocity – Appearance

Audrey Cho

Audrey Cho appeared and was sworn in by President Park prior to answering questions or offering testimony.

Courtney Lee provided background information on Ms. Cho's disclosure that she had dispensed medications without a valid prescription.

Ms. Cho explained to the Board the events that occurred in Idaho and the reasons that she provided drugs without a valid prescription. Ms. Cho stated that she has learned from her past mistakes and assured the Board that she will not repeat these errors in the future.

Board Action:

Motion: Jade Jacobo moved to approve Ms. Cho's application for Pharmacist Registration by Reciprocity.

Second: Krystal Freitas

Aye: Park, Jacobo, Mitchell, Freitas, Tomasso, Tejero

Nay: Zakariassen

Action: Passed unanimously.

17. Request for approval of Continuing Education provided by the Nevada Geriatric Education Center:

High-risk Medications: Prescribed and Non-prescribed; Mobility and Independence: Impact of Frailty and Falls.

Patty Swager appeared on behalf of the University of Nevada – Reno.

Ms. Swager summarized the course information for the Board and stressed the importance of practitioners' and pharmacists' role in the care of geriatric patients.

Ms. Swager answered questions to the Board's satisfaction.

Motion: Jade Jacobo moved to approve the Continuing Education class by University of Nevada – Reno.

Second: Krystal Freitas

Action: Passed unanimously.

18. General Counsel Report. Note: The Board may exclude the public for a report on potential or existing litigation pursuant to NRS 241.015(3)(b)(2).

19. Executive Secretary Report:

A. Financial Report

Mr. Wuest presented the financials to the Board's satisfaction.

B. Issuance of Temporary Licenses and Registrations

- C. Change of Address Business List
- D. Meetings with Other Health Care Regulatory Boards
- E. COVID-19 Response
- F. Licensing Software Update
- G. Licensing Activities Report
- H. PMP Integration

20. Notice of Proposed Regulation Public Hearing Pursuant to NRS 233B.061(2)

**Amendment of Nevada Administrative Code (NAC) 453.510: Schedule 1.** The proposed amendment to NAC 453.510 will add certain benzodiazepines to the controlled substances listed in schedule 1. (LCB File No. R143-20)

Brett Kandt provided background information on the proposed amendment to the Board.

Ms. Long explained that the proposed amendment came from recommendations during a meeting with the crime lab.

President Park opened the public comment.

There was no public comment.

Board Action:

Motion: Richard Tomasso moved to approved the proposed amendment as presented by Mr. Kandt.

Second: Gener Tejero

Action: Passed unanimously.

21. Notice of Proposed Regulation Workshop Pursuant to NRS 233B.061(2)

- A. **Amendment Of Nevada Administrative Code (NAC) 639.715, 639.718 and 639.720: Use of Mechanical Device to Dispense Prescription Drugs.** The proposed amendments will license the use of a mechanical device to furnish a prescription drug to a patient and revise regulatory requirements for mechanical devices.

Dave Wuest provided background on the proposed amendment.

Board discussion ensued regarding the proposed amendment.

President Park opened the public comment.

Ed Rickert, Pharmacist and Attorney, appeared and expressed support of the proposed amendment.

President Park closed public comment.

Board discussion ensued regarding the locations and the role of the medical devices. The Board directed Board Staff to bring the proposed amendment back to workshop with clarifications regarding mechanical devices and automated drug dispensing systems.

- B. **Amendment Of Nevada Administrative Code (NAC) Chapter 453: Prescription Monitoring Program integration.** The proposed amendments will regulate the integration of the records of patients in the database of the computerized program established pursuant to [NRS 453.162](#) with the electronic health records of practitioners.

Brett Kandt provided background on the proposed amendment.

President Park opened the public comment.

There was no public comment.

Board discussion ensued regarding who qualifies to be an authorized delegate. Mr. Kandt stressed the importance of ensuring that PMP data does not get distributed to unauthorized users.

Board Action:

Motion: Jade Jacobo moved to approved the proposed amendment with corrections as discussed and move forward to Public Hearing.

Second: Richard Tomasso

Action: Passed unanimously.

22. Date and Location of Next Scheduled Board Meeting:

April 14 & 15, 2021 – Las Vegas, NV

23. Public Comment March 4, 2021, 5:00 PM

There was no Public Comment.

24. Adjournment